

Key Ideas

Chapter 9: Cumulative Funds



In this section, we will discuss the following:

- *The procedure for establishment of a Cumulative Fund.*
- *The timing requirements for establishing a Cumulative Fund.*
- *The types of Cumulative Funds available to Cities/Towns.*

PROCEDURE FOR ESTABLISHMENT OF A CUMULATIVE FUND

In addition to complying with the budget, tax rate and tax levy requirements of Ind. Code § 6-1.1-17, a taxing unit must follow the steps for establishing a Cumulative Fund pursuant to Ind. Code § 6-1.1-41. If the establishment is not in compliance with Ind. Code § 6-1.1-41 and this section, a tax may not be levied in the ensuing year. In addition the fund may not have a rate that exceeds what is stated in the applicable statute. After a political subdivision complies with Ind. Code § 6-1.1-41 to establish the Cumulative Fund, it may levy a property tax annually at the rate approved without further action. The tax levy must be advertised annually as other tax levies are advertised. Steps 1 through 3 must occur before August 2nd per Ind. Code § 6-1.1-17-16.7. (Transcript postmarked or file marked no later than August 1.)

Step 1:

If a city/town decides to levy a Cumulative Fund, it shall hold a public hearing on a proposal to establish the fund rate by the publication of a Notice to Taxpayers (a sample is included in this chapter), describing the tax levy to be imposed, which shall be published two (2) times, at least seven (7) days apart, with the first publication being at least ten (10) days before the public hearing and the second at least three (3) days before the public hearing in accordance with Ind. Code § 5-3-1-4. If the fund is for Cumulative Channel Maintenance (IC 8-10-5-17), notice of the proposal and the public hearing shall also be posted in three (3) public places within the political subdivision.

For city/towns that are uncertain whether a local newspaper meets the requirements for publishing, the definition of qualified newspaper follows.

A qualified publication as defined in IC 5-3-1-0.7 is as follows:

“(a) As used in this chapter, "qualified publication" means a publication that:

- 1) is published daily, weekly, semiweekly, or tri-weekly;
- 2) is of general circulation to the public;
- 3) has been published for at least three (3) consecutive years in the same city or town;
- 4) has continuity as to title and general nature of content from issue to issue;
- 5) contains news of general or community interest, community notices, or editorial comment;
- 6) contains advertisements from unrelated advertisers in each issue;
- 7) has, in more than one half (1/2) of its issues published during the previous twelve month period, not more than seventy five percent (75%) advertising content;
- 8) has a known office location in the county which it is published; and
- 9) has been entered, authorized, and accepted by the United States Postal Service as mailable matter of requester second class or of the third class (as defined in 39 U.S.C. 3623) for the time published."

I.C. 5-3-1-4 covers the guidelines for publication requirements for all political subdivisions. A brief summary of the requirements pertaining to cities/towns is as follows:

- City, Town, or School- if only one newspaper is published in the municipality or School Corporation, publication in that newspaper alone is sufficient. If no newspaper is published in the municipality or school corporation, then publication

shall be made in a newspaper or newspapers published in the county in which the municipality or school corporation is located and that circulates within the municipality or school corporation. Also, the notice shall be posted:

- (1) at or near the city or town hall or school administration building; or
- (2) at the:
 - a. public building where the governing body of the respective city, town, or school corporation meets; or
 - b. post office in the municipality or school corporation (or at the bank if there is no post office);

if the municipality does not have a city or town hall, or the school corporation does not have an administration building.

CROSS COUNTY UNITS

City, Town, or School- if a political subdivision has territory in more than one county:

- (1) publish in **two** newspapers within boundaries of the political subdivision.
- (2) **if there is only one** newspaper published within the boundaries of the political subdivision, then publish in that paper and in any other newspaper that:
 - a) is published in the county in which the subdivision extends
 - b) has a general circulation in the political subdivision.
- (3) **if no** newspaper is published within the political subdivision's boundaries, then publish in two newspapers that:
 - a) are published in a county in which the political subdivision extends:
 - b) has a general circulation in the political subdivision.
- (4) **if only one** newspaper is published in any of the counties in which the subdivision extends, then publish in that newspaper if it circulates within the political subdivision.

*****Qualified publications must circulate to not less than ten percent of the population of the county in which the qualified publication is published. *****

Step 2:

The adopting body shall conduct a public hearing on the proposed Cumulative Fund on the date, time and location as indicated in the Notice to Taxpayers. At this meeting, taxpayers of the affected taxing district(s) have the right to be heard. Upon completion of the public hearing, the adopting body must pass a resolution/ordinance (a sample is included in this chapter) adopting the proposed Cumulative Fund as presented or at a lesser rate.

Step 3:

If a resolution/ordinance is passed by the adopting body that proposes a rate for a Cumulative Fund, such proposal shall be submitted by the fiscal officer of the political subdivision on behalf of the adopting body to the Department of Local Government Finance for approval. The proposal forwarded to the Department of Local Government Finance shall contain the following:

- (a) Procedure Checklist (A sample checklist is included at the end of this chapter.)

- (b) Resolution/Ordinance of Adopting Body (A sample resolution/ordinance is included at the end of this chapter.)
- (c) Proofs of Publication (and proofs of posting, if required) of Notice to Taxpayers

The above documentation must be filed with the Department of Local Government Finance before August 2nd of the immediate proceeding year to levy the rate for the ensuing year.

(Postmark of not later than August 1st will be accepted.)

Step 4:

The proposal, as submitted, will be reviewed by the Department of Local Government Finance for completeness. If the proposal contains errors or proper procedure is not followed, the packet will be returned to the fiscal officer of the adopting unit for correction, providing that the time constraints outlined in Step 3 can be met.

Step 5:

The Department of Local Government Finance shall require that a Notice of Submission be given to affected taxpayers. This notice will be prepared by the DLGF and mailed to the taxing unit. The taxing unit shall publish the Notice of Submission one (1) time in two (2) newspapers. If only one (1) newspaper is published in your political subdivision, publication in that newspaper alone is sufficient. (If the fund is a Cumulative Channel Maintenance Fund (IC 8-10-5) the notice shall also be posted in three (3) public places in the political subdivision.)

Step 6:

No Taxpayer Objections

After the required remonstrance period has passed, the adopting unit shall forward proof of publication of the publication of the Notice of Submission and proofs of posting (if required) to the Department of Local Government Finance along with the County Auditor's Certificate of No Objection (a sample certificate is included at the end of this chapter). It is the responsibility of the applying taxing unit to secure a Certificate of No Objection from the County Auditor. Proofs of publication of the Notice of Submission must be provided to the Auditor in order to verify that the proper time for filing objections has passed.

Taxpayer Objections

Taxpayers who are affected by the proposed Cumulative Fund may file an objecting petition with the County Auditor not later than noon, by the end of the required remonstrance period after publication of the Notice of Submission setting forth their objections to the proposed rate. Pursuant to IC 6-1.1-41, the number of signatures required for a valid objecting petition is specific to each type of Cumulative Fund as follows:

- At least ten (10) taxpayers in the taxing district, if the fund is authorized under:

IC 36-8-14 Cumulative Fire and Building Fund
IC 36-9-4 Cumulative Transportation Fund
IC 36-10-4 Cumulative Sinking & Bldg. Fund – Parks
IC 36-9-15.5 Cumulative Capital Development Fund
IC 8-16-3-3 Cumulative Bridge Fund
IC 8-10-5-17 Cumulative Channel Maintenance Fund

- At least thirty (30) taxpayers in a tax district, if the fund is authorized under:

IC 36-10-3 Park Cumulative Bldg. Fund

- At least fifty (50) taxpayers in a municipality, if the fund is authorized under:

IC 36-9-15.5 Cumulative Capital Development Fund
IC 36-9-16 Cumulative Capital Improvement (Rate)
IC 36-9-16-1 Cumulative Building Fund
IC 8-22-3-25 Cumulative Building Airport Fund
IC 36-9-17 Cumulative General Improvement Fund
IC 36-9-27-100 Cumulative Drainage Fund
IC 36-9-26-4 Cumulative Sewer Fund

The County Auditor shall immediately certify the objecting petition(s) to the Department of Local Government Finance by verifying:

- (a) the number of taxpayers on the petition and counterparts who are property owners with the taxing district(s) where the proposed Cumulative Fund will be levied;
- (b) that the proper number of qualified signatures appear on the petition and counterparts; and
- (c) the petition(s) was filed within the proper number of days after the publication of the Notice of Submission.

If a petition is certified by the County Auditor to the Department of Local Government Finance, the Department shall fix a date for hearing within a reasonable time after receipt. Notice of the hearing, under the signature of the Commissioner of the Department of Local Government Finance, shall be given to the County Auditor and the first ten (10) taxpayers whose names appear on the petition at least five (5) days before the date of the hearing.

A hearing will be conducted in the County by a hearing officer of the Department of Local Government Finance at which time all affected taxpayers have the right to be heard. Testimony will be accepted from those in opposition as well as those in favor. The hearing officer(s) will submit a report on the hearing to the Commissioner.

In years following the year of adoption and pursuant to IC 6-1.1-41-12, taxpayers of the taxing district(s) where the rate is levied may file with the County Auditor a petition for reduction or revision of the Cumulative Fund levy. Such petitions must be filed on or before August 1 for the next ensuing year. The required number of taxpayers to file an objection is as follows:

<u>Cumulative Fund Taxpayers</u>		<u>Minimum Number of</u>
Cumulative Channel Maintenance Fund	Ind. Code § 8-10-5	10
Cumulative Bridge Fund	Ind. Code § 8-16-3	10
Airport Cumulative Fund	Ind. Code § 8-22-3	50
Cumulative Hospital Fund	Ind. Code § 16-23-1	10
Cumulative Fire Fund	Ind. Code § 36-8-14	10
Cumulative Transportation Fund	Ind. Code § 36-9-4	10
Cumulative Capital Development	Ind. Code § 36-9-15.5	50
Cumulative Capital Improvement Fund (Rate)	Ind. Code § 36-9-16	50
General Improvement Fund	Ind. Code § 36-9-17	50
Cumulative Bldg. Fund for Municipal Sewers	Ind. Code § 36-9-26	50
Cumulative Drainage Fund	Ind. Code § 36-9-27	50
Cumulative Park Fund	Ind. Code § 36-10-3	50
Cumulative Park Fund (Certain Cities)	Ind. Code § 36-10-4	10

Step 7:

The Department of Local Government Finance shall certify approval, disapproval, or modification of the proposal to the county auditor. The action of the Department of Local Government Finance with respect to the proposed levy is final. The approved Cumulative Fund may be levied beginning with the first annual tax levy after approval or the year as stated in the Notice to Taxpayers and the final order approving the fund. The Cumulative Fund does not expire and may be levied from year to year as long as the levy is advertised annually with the annual budget or is not limited by the establishing resolution/ordinance. For Cumulative Capital Development Funds, the fiscal body shall specify in its establishing resolution the rates for year one, year two, year three (and thereafter). This method will allow for the increasing rates without the unit having to reestablish each of the first three years of the fund. However, the unit must clearly state the increasing rates in its resolution and publications. (Sample resolutions/ordinances and publications are included at the end of this chapter.)

If the appropriate fiscal body for a given calendar year reduces the Cumulative Fund rate and wishes to increase the rate in subsequent years, the fund must again be established and presented to taxpayers. The fund must also be reestablished if the use of the Cumulative Fund is changed.

The tax rate may not exceed the rate as specified by the statute authorizing the fund. The Department of Local Government Finance will apply the rate cap calculations to all Cumulative Funds as listed in this chapter. The maximum property tax rate levied must be adjusted each time a reassessment of property takes affect. When a Cumulative Fund is established, the Department of Local Government Finance order will reflect the (statutory) rate adopted by the taxing unit. The Budget Order will reflect the cap rate adjustment pursuant to Ind. Code § 6-1.1-18.5-9.8.

General

Taxes collected shall be deposited in a specific fund and may only be used for the purposes as stated in the statute and/or the resolution/ordinance as adopted. All funds must be appropriated before expenditure. The Department of Local Government Finance must approve all appropriations, except for the Cumulative Bridge Fund. Appropriations may be included in the political subdivision's annual budget or may be established by additional appropriation.

If the political subdivision establishing the fund;

- (1) decides that the purposes for which the fund was established have been accomplished or no longer exists; or
- (2) rescinds the tax levy for the fund;

the governing body establishing the fund for the political subdivision may transfer the balance in the fund to the General Fund of the unit. The money in a Cumulative Fund does not revert to the General Fund at the end of the fiscal year.

Questions regarding this bulletin or matters pertaining to the establishment of a Cumulative Fund should be directed to Paige Gilpin at (317) 232-0651 or faxed to (317) 232-8779.

**NOTICE TO TAXPAYERS OF HEARING ON PROPOSED
CUMULATIVE _____ FUND**
(Name of Fund)

Notice is hereby given the taxpayers of _____,
(Name of Unit)
_____, County, Indiana, that the _____
(County Name) (Name of Adopting Body)
will consider at _____
(Location of Meeting)
at _____ o'clock am/pm on _____, 2_____, the establishment of
(Time) (Day and Month) (Year)
a Cumulative _____ Fund under the provisions of Indiana Code
(Name of Fund)
_____ for the purposes as follows:
(Code Citation)

***Unit may set out selective uses as provided by the establishing statute or the unit may
state "For all uses as set out in IC _____"***

The tax will be levied on all taxable real and personal property within the taxing district and
will not exceed \$_____ per \$100 of assessed valuation. The proposed fund will be levied
(Adopted Rate)

beginning with taxes due and payable in the year 2_____. Taxpayers appearing at such hearing shall
have the right to be heard thereon. The proposal for establishment of the Cumulative
_____ Fund is subject to approval by the Department of Local
(Name of Fund)

Government Finance, who will require a Notice of Submission to be given to the taxpayers by publication.
After the publication of the Notice of Submission, _____ or more taxpayers in the taxing district may file
a petition with the County Auditor not later than _____ days after publication, setting forth their
objections to the proposed levy.

Dated this _____, day of _____, 2_____

(Adopting Body)

**ORDINANCE/RESOLUTION ESTABLISHING
CUMULATIVE _____ FUND**
(Name of Fund)

Under Indiana Code _____
(Code Citation)

BE IT RESOLVED by the _____
(Adopting Body)

of _____, County, Indiana that a need now exists for the establishment
(Name of County)

a Cumulative _____ Fund for the following purposes:
(Name of Fund)

***Unit may set out selective uses as provided by the establishing statute or the unit may
state "For all uses as set out in IC _____"***

BE IT FURTHER RESOLVED that this Board/Council will adhere to the provisions of
Indiana Code _____. The proposed fund will not exceed \$_____ on each
(Code Citation) (Adopted Rate)

\$100 of assessed valuation. Said tax rate will be levied beginning with taxes for 2_____ payable
2_____.

BE IT FURTHER RESOLVED that proofs of publication of the public hearing held
on the _____ day of _____, 2_____, and a certified copy of this resolution be
submitted to the Department of Local Government Finance of the State of Indiana as provided by law.
Said Cumulative Fund is subject to the approval of the Department of Local Government Finance.

Duly adopted by the following vote of the members of said _____ this
(Adopting Body)

_____ day of 2_____.

AYE

NAY

Attest: _____, Fiscal Officer

PROCEDURE CHECKLIST

(Complete the top portion of this form and submit to the Department of Local Government Finance with proof of publication of Notice to Taxpayers and the adopting resolution/ordinance.)

TAXING UNIT: _____

COUNTY: _____

CUMULATIVE FUND: _____

CODE CITATION: IC _____

YEAR TO BE FIRST LEVIED 2____ PAY 2____

NOTICE TO TAXPAYERS:

1st Publication: _____ in the _____
(Date) (Name of Newspaper)
_____ in the _____
(Date) (Name of Newspaper)

2nd Publication _____ in the _____
(Date) (Name of Newspaper)
_____ in the _____
(Date) (Name of Newspaper)

PUBLIC HEARING HELD ON: _____, 2____

ORDINANCE ADOPTED ON: _____, 2____

PROPOSED RATE : \$ _____

MAILING ADDRESS OF UNIT: _____

TO BE COMPLETED BY THE DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Date Proposal Received: _____
Date Second Notice Issued: _____
Date of Second Notice Publication: _____
Date Second Notice Received: _____
Date of Certificate of No Remonstrance: _____
Date Certificate Received: _____
Order Date: _____

CERTIFICATE OF NO OBJECTION

I, _____, Auditor of
(Auditor's Name)
_____, County, Indiana, do hereby certify that there were no
(County Name)
remonstrances filed on the proposed Cumulative _____ Fund
(Name of Fund)
as adopted by the _____
(Name of Adopting Body)
on _____, 2____. Notice of Submission to the Department of Local
Government
(Day/Month) (Year)
Finance was published on _____
(Date(s) of Publication)
in the _____ newspaper.
(Name of Newspaper(s))

Dated this _____ day of _____, 2_____.

Auditor

Sample Ordinance/Resolution for Cumulative Capital Development Funds

**ORDINANCE/RESOLUTION ESTABLISHING
CUMULATIVE CAPITAL DEVELOPMENT FUND
UNDER INDIANA CODE _____
(CODE CITATION)**

BE IT RESOLVED by the _____
(Adopting Body)
of _____, County, Indiana that a need now exists for the establishment
(Name of County)

a Cumulative Capital Development Fund for the following purposes:

*Unit may set out selective uses as provided by the establishing statute or the unit may
state "For all uses as set out in IC _____"*

BE IT FURTHER RESOLVED that this Board/Council will adhere to the provisions of
Indiana Code _____. The proposed fund will not exceed:

\$_____ per \$100 of assessed valuation beginning with taxes payable in 20____,
\$_____ per \$100 of assessed valuation payable in 20____, and
\$_____ per \$100 of assessed valuation payable in 20____ and thereafter, continuing until reduced or
rescinded.

BE IT FURTHER RESOLVED that proofs of publication of the public hearing held
on the _____ day of _____, 2____, and a certified copy of this resolution be submitted to the
Department of Local Government Finance of the State of Indiana as provided by law. Said Cumulative Fund is
subject to the approval of the Department of Local Government Finance.

Duly adopted by the following vote of the members of said _____ this _____ day of
2_____.

(Adopting Body)

AYE

NAY

Attest: _____, Fiscal Officer

Sample Notice to Taxpayers for the Establishment of a Cumulative Capital Development Fund.

**NOTICE TO TAXPAYERS OF HEARING ON PROPOSED
CUMULATIVE CAPITAL DEVELOPMENT FUND**

Notice is hereby given the taxpayers of _____,
(Name of Unit)
_____, County, Indiana, that the _____
(County Name) (Name of Adopting Body)
will consider at _____
(Location of Meeting)
at _____ o'clock am/pm on _____, 2____, the establishment of
(Time) (Day and Month) (Year)
a Cumulative Capital Development Fund under the provisions of Indiana Code
_____ for the purposes as follows:
(Code Citation)

<p>Unit may set out selective uses as provided by the establishing statute or the unit may state "For all uses as set out in IC _____"</p>

The tax will be levied on all taxable real and personal property within the taxing district and
will not exceed:

\$_____ per \$100 of assessed valuation payable in 20____,
\$_____ per \$100 of assessed valuation payable in 20____, and
\$_____ per \$100 of assessed valuation payable in 20____, and thereafter,

continuing until reduced or rescinded. Taxpayers appearing at such hearing shall have the right to be heard thereon.

The proposal for establishment of the Cumulative Capital Development Fund is subject to approval by the Department
of Local Government Finance, who will require a Notice of Submission to be given to the taxpayers by publication.

After the publication of the Notice of Submission, fifty (50) or more taxpayers in the taxing district may file a petition
with the County Auditor not later than thirty (30) days after publication, setting forth their objections to the proposed
levy.

Dated this _____, day of _____, 2____

(Adopting Body)

Summary

Chapter 9: Cumulative Funds



In this section, we have discussed the following:

- *What the procedures are for establishment of a Cumulative Fund.*
- *Cumulative Funds require final approval from the Commissioner of the Department of Local Government Finance.*
- *A Cumulative Fund can be used for specific purposes.*

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